

AMENDED IN ASSEMBLY MARCH 31, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1305

**Introduced by Assembly Member V. Manuel Perez
(Coauthor: Assembly Member Salas)**

February 27, 2009

An act to add Section 41514.15 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1305, as amended, V. Manuel Perez. Air pollution: imported electricity: mitigation fee.

Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law also designates the State Air Resources Board as the state entity responsible for the coordination and review of all levels of government in their efforts to control air pollution.

This bill would require any person that imports *certain* electricity into the state, or causes *that* electricity to be imported into the state, to pay up to a \$0.001 per kilowatthour air contaminant emission electricity generation mitigation fee for that electricity, but not to exceed the cost of mitigation, as determined by the state board. The bill would impose the fee only if the electricity is produced by an electrical generating facility, as defined, that is located within an air basin shared by a district and Mexico and located in Mexico within 100 kilometers of the United States' border, if construction of the electrical generating facility was completed after January 1, 2010, *the facility provides incremental generating capacity that was not in operation prior to January 1, 2010,*

and if the electrical generating facility was not constructed to meet all existing California air pollution regulations and standards, including, but not limited to, best available control technology (BACT) and any offsets that would be required under California law to mitigate any additional pollution.

The bill would establish the Imported Electricity Air Pollution Mitigation Subaccount in the Air Pollution Control Fund, and would require the *mitigation* fees to be deposited in that subaccount. The bill would make the moneys deposited in the subaccount available to the state board, upon appropriation by the Legislature, for distribution to each district in the state that the state board determines is directly impacted by emissions of air contaminants from those electrical generating facilities. The bill would require each district receiving those revenues to fund projects within its jurisdiction to mitigate the environmental or health impacts of electricity generation facilities.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 41514.15 is added to the Health and
- 2 Safety Code, to read:
- 3 41514.15. (a) Any person who imports electricity into the
- 4 state, or causes electricity to be imported into the state, shall pay
- 5 an electricity generation mitigation fee in the amount described in
- 6 subdivision (b) to the state board to mitigate the air pollution
- 7 caused by the generation of that electricity,~~if only to the extent~~
- 8 *that* the electrical generating facility that generated the electricity
- 9 meets all of the following criteria:
- 10 (1) Is located within an air basin shared by a district and Mexico,
- 11 as determined by the state board.
- 12 (2) Is located in Mexico within 100 kilometers of the United
- 13 States' border.
- 14 (3) Was not constructed to meet all existing California air
- 15 pollution regulations and standards, including, but not limited to,
- 16 best available control technology (BACT) and any offsets that
- 17 would be required under California law to mitigate any additional
- 18 pollution.

1 (4) Construction was completed after January 1, 2010, *and the*
2 *facility provides incremental generating capacity that was not in*
3 *operation prior to January 1, 2010.*

4 (b) (1) The electricity generation mitigation fee shall be assessed
5 by the state board at a rate of not more than one-tenth of one cent
6 (\$0.001) per kilowatthour of electricity *generated from the*
7 *incremental capacity of the electrical generating facility* that is
8 imported into the state, but not to exceed the cost that the state
9 board determines is necessary to mitigate the environmental or
10 health impacts of electricity generation facilities meeting the
11 criteria described in subdivision (a), and any associated
12 administrative costs to each impacted district. The state board may
13 impose a fee less than one-tenth of one cent (\$0.001) per
14 kilowatthour of electricity if the state board determines that the
15 lower fee amount would further enhance reductions of emissions
16 of air contaminants.

17 (2) The state board shall consult with the Independent System
18 Operator in determining the amount of electricity that is imported
19 into the state from an electrical generating facility that meets the
20 criteria described in subdivision (a).

21 (c) The fees collected by the state board pursuant to subdivision
22 (a) shall be deposited into the Imported Electricity Air Pollution
23 Mitigation Subaccount, which is hereby established in the Air
24 Pollution Control Fund. The moneys deposited in the subaccount
25 pursuant to this section shall be available to the state board, upon
26 appropriation by the Legislature, for the purposes described in
27 subdivision (d).

28 (d) (1) The state board shall distribute the revenues that are
29 deposited in the subaccount pursuant to this section to each district
30 that the state board determines is directly impacted by emissions
31 of air contaminants from an electrical generating facility that meets
32 the criteria described in subdivision (a), in the proportion that the
33 state board determines that the district is impacted.

34 (2) A district receiving revenues pursuant to paragraph (1) shall
35 utilize those moneys to fund projects within its jurisdiction that
36 the district determines will mitigate the environmental or health
37 impacts of electrical generating facilities meeting the criteria of
38 subdivision (a). The district may not expend more than 10 percent
39 of the moneys it receives from the state board pursuant to paragraph
40 (1) for administrative costs.

1 (e) For the purposes of this section, “electrical generating
2 facility” means every electrical generating unit, *not in operation*
3 *prior to January 1, 2010*, of a powerplant that is located at a
4 common site in Mexico. If more than one electrical generating
5 unit exists at a powerplant project, ~~all of the electrical generating~~
6 ~~units~~ *is added to the same powerplant after January 1, 2010, only*
7 *the electricity generated by the incremental capacity added after*
8 *January 1, 2010*, shall be deemed to be part of one electrical
9 generating facility.

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